

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

NORTH CAROLINA A. PHILIP RANDOLPH  
INSTITUTE and ACTION NC,

*Plaintiffs,*

v.

THE NORTH CAROLINA STATE BOARD OF  
ELECTIONS, et al.,

*Defendants.*

Civil Action No.  
1:20-cv-00876

**PARTIES' JOINT PROPOSED DISCOVERY PLAN  
PURSUANT TO FED. R. CIV. P. 26(F) AND LOCAL RULE 16**

1. Pursuant to Fed. R. Civ. P. 26(f) and LR16.1(b), a meeting was held virtually on November 1, 2022 and was attended by Counsel for Plaintiffs (Mitchell Brown, Aimee Durant and Nihara Choudhri), Counsel for the State Board of Elections Defendants (Terence Steed and Mary Carla Babb) and Counsel for the District Attorney Defendants (Kathryn Shields and Elizabeth Curran O'Brien).
2. Discovery Plan. The undersigned parties propose to the Court the following discovery plan:

If there is a pending dispositive motion: No dispositive motion is pending. Discovery should not be postponed.

The "commencement date" of discovery will be: November 15, 2022.

Plaintiffs will seek discovery on the following subjects:

1. The number of individuals of each race, broken down by county and year, who have been investigated for potentially illegally voting under N.C.G.S. § 163-275(5) from January 1, 2014 onwards.
2. The number of individuals of each race, broken down by county and year, who have been referred by the State Board of Elections for prosecution to the relevant District Attorneys under N.C.G.S. § 163-275(5) from January 1, 2014 onwards.
3. The number of individuals of each race, broken down by county and year, who have been indicted under N.C.G.S. § 163-275(5) from January 1, 2014 onwards.

4. The State Board of Elections' practices and procedures for investigating violations of N.C.G.S. § 163-275(5) from January 1, 2014 onwards.
5. Each District Attorney's practices and procedures for investigating and/or prosecuting violations of N.C.G.S. § 163-275(5) from January 1, 2014 onwards.
6. Defendants' construction of N.C.G.S. § 163-275(5).

Plaintiffs may also seek discovery of other categories of documents and information relating to Plaintiffs' claims, including but not limited to discovery concerning whether N.C.G.S. § 163-275(5) was originally enacted with discriminatory intent and whether the term "unconditional discharge" is unconstitutionally vague.

The DA Defendants will seek discovery on the following subjects:

1. Factual information supporting Plaintiffs' assertion of standing.

The undersigned parties propose that the appropriate plan for this case is that designated in LR 26.1(a) as: Standard.

The date for the completion of all discovery (general and expert) is: May 15, 2023.

Stipulated modifications to the case management track include: None.

Reports required by Rule 26(a)(2)(B) and disclosures required by Rule 26(a)(2)(C) are due during the discovery period:

From Plaintiffs by April 8, 2023

From Defendants by May 8, 2023

Supplementations will be as provided in Rule 26(e) or as otherwise ordered by the court.

The parties agree that all dispositive motions shall be filed by June 15, 2023.

3. Preliminary Deposition Schedule. The undersigned propose the following schedule for depositions:

1. March/April 2023: Depositions of Plaintiffs' witnesses
2. April/May 2023: Depositions of Defendants' witnesses

The parties will update this schedule at reasonable intervals.

4. Other items

All parties agree to add no further amendments or to add other parties to the complaint, absent leave of Court.

After these dates, the Court will consider, *inter alia*, whether the granting of leave would delay trial.

The parties have discussed special procedures for managing this case, including reference of the case to a Magistrate Judge on consent of the parties under 28 U.S.C. §§636(c), or appointment of a master. The parties understand that under Middle District of North Carolina Standing Order 30, Magistrate Judge Webster has been assigned to conduct all proceedings prior to trial. The parties have not consented to Judge Webster's trial jurisdiction.

Trial of the action is expected to take approximately 5 days; and will commence in September 2023.

A jury trial HAS NOT been demanded.

The parties discussed whether the case will involve the possibility of confidential or sealed documents, and have decided that the case will not involve confidential or sealed documents. The parties will do their best to craft any discovery requests so as to avoid the need to provide any Personal Identifying Information. If the parties' requests cannot be crafted in a manner so as to avoid the need for Personal Identifying Information, then the parties at that time will enter into a confidentiality agreement and will submit a L.R. 5.5 Report.

The District Attorney Defendants assert work product privilege as to any discovery requests that request opinion work product – mental impressions, conclusions, opinions, legal theories. *See* Plaintiffs' proposed discovery #6 above. The parties also agree that should any assertions of privilege come up that they will be handled in compliance with Federal Rule of Civil Procedure 26(b)(5).

Federal Rule of Civil Procedure 26(a) initial disclosures will be made by November 29, 2022

Dated: November 9, 2022

By: /s/ Mitchell D. Brown

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